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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,889	03/05/2002	Mattias Johansson	65.748-753	2007

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EXAMINER

HANSEN, COLBY M

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,889

Applicant(s)

JOHANSSON ET AL.

Examiner

Colby Hansen

Art Unit

3682

MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/174,748.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7, 12 & 13.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 12/15/2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huff et al (US Pat. 2,860,720) in view of French Pat. 2739947.

Huff et al (US Pat. 2,860,720) discloses an adjustable pedal assembly comprising:

A mounting arrangement for attachment to a vehicle structure;

At least one pedal 60 having first and second ends and supported for pivotally moving about a first pivot axis 64 between rest and applied position;

An adjustment element pivotally supported on said mounting arrangement about a second pivot axis 48 with said second pivot axis remaining fixed relative to said mounting arrangement as said adjustment element 40,42,70,78,80,82 pivotally moves between various adjusted positions;

Said first pivot axis 64 supporting said first end of said pedal on said adjustment element spaced from said second pivot axis for pivotal movement relative to said adjustment element with said first pivot axis being generally parallel to said second pivot axis;

A drive mechanism 70,78,80,82 operably connected to said adjustment for selectively rotating said adjustment element, said pedal and said first pivot axis about said second pivot axis 48 between said various adjusted positions for selectively moving said pedal between a plurality of operable position.

A second pedal pivotally supported by said adjustment element whereby said adjustment element simultaneously adjusts the operational position of both of said pedals;

Said adjustment element adjusts an angular position of said accelerator pedal pad when selectively rotated by an electric motor 78;

Said adjustment element maintains said first pivot axis at a lower vertical position than said second pivot axis at all adjusted positions.

However Huff et al (US Pat. 2,860,720) does not disclose the use of an electric signal generator for actuation of the accelerator, brakes, and/or clutch.

French Pat. 2739947 discloses a modular electric signal generator responsive to pivotal movement of a pedal for electrically controlling a vehicle system in response to pivotal movement of said pedal about an axis of rotation, said electric signal generator further defined as a potentiometer that emits an electric signal varying with the pivotal position of said pedal between said rest and applied positions about said axis.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized the modular electric signal generator of French Pat.

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2739947, between the pedals and support structures of Huff et al (US Pat. 2,860,720) as an actuator of the accelerator, brakes, and/or clutch with a modular mounting structure that allows for easier manufacturing of pedal structures of a vehicle.

Regarding claim 35, Huff et al (US Pat. 2,860,720) does not disclose an angle formed between said first and second pivot axes being in the range of 30 degrees to 40 degrees. It would have been obvious to one having ordinary skill in the art at the time then invention was made to have utilized an angle between said first and second pivot axes of between 30 and 40 degrees, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

Response to Arguments

Applicant's arguments filed 4/19/2004 have been fully considered but they are not persuasive.

Firstly, the Examiner was unable to access the animated file on the received CD-R, and thus the animation has not been considered.

Applicant argues, by means of the affidavits of Radcliffe and Johansson and the attorney's remarks, that there is no motivation to modify Huff et al (US Pat. 2,860,720) with French Pat. 2739947. Examiner disagrees; the motivation for said combination is set forth in the rejection, that the use of a modular mounting structure of accelerator, brake, and/or clutch electric actuators would make for easier production, in terms of less labor, with a reduction in reduction in parts,(fly-by-wire assembly) in that the need for the linkage 66 and parts connected

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beyond (i.e. master cylinder, etc.) would be superfluous (and detrimental to the overall function of the assembly) and therefor eliminated.

Applicants also argues, by means of the affidavits of Radcliffe and Johansson and the attorney's remarks that the combination of Huff et al (US Pat. 2,860,720) and French Pat. 2739947 would be functionally impossible resulting in unwanted and unsafe actuation of the brakes, clutch, and/or accelerator. Examiner disagrees as applicant seems to misunderstand the basis of the combination. The combination of Huff et al.(US Pat. 2,860,720) with French Pat. 2739947 would eliminate the linkage 66 and the parts connected beyond thereof (i.e. mater cylinder, etc.), for the electric signal actuator of French Pat. 2739947, which as described in its specification, would be pivotally fixed with respect to the adjustment means of Huff et al (US Pat. 2,860,720), only pivoting about its axis of rotation upon actuation by the driver. Such a modification would be an obvious to do so as to create reduction of parts that would allow for easier construction and lower production costs, as well as being an obvious variant means of actuating the clutch, brakes, and/or accelerator.

FACSIMILE TRANSMISSION

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 305-3597**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

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I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 872-9306) on _____

(Date)

Typed or printed name of person signing this certificate:

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Colby Hansen whose telephone number is (703) 305-1036. The examiner can normally be reached on Monday through Thursday and every other Friday from 7:30 PM to 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci, can be reached on (703) 308-3668. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Colby M. Hansen

 5/26/04
Patent Examiner